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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re Y.R., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

Y.R.,

Defendant and Appellant.

F073189

(Madera Super. Ct. No. MJL018232)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Madera County. Thomas L. Bender, Judge.

Kristen Owen, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Eric L. Christoffersen and Michael A. Canzoneri, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Poochigian, J., and Smith, J.

The court sustained allegations in a petition (Welf. & Inst. Code, § 602) charging appellant Y.R. with battery (Pen. Code, § 242). On February 2, 2016, the court adjudged appellant a ward of the court and placed her on probation.

On appeal, appellant contends that the evidence is insufficient to sustain the battery charge. We affirm.

FACTS

The evidence at appellant's jurisdictional hearing established that on February 14, 2015, appellant, who was then 14 years old, left home and, per her mother's instructions, was to return no later than 9:00 p.m.

On February 15, 2015, at around 7:00 a.m., appellant arrived home after having stayed out all night. Mother was upset and attempted to talk to her. She asked appellant why she came home at that time and whether appellant had been told when to come home. Appellant responded, "I know mom, I know mom" as she walked straight into the bathroom. Mother continued talking to appellant as she followed appellant into the bathroom, but appellant just replied, "Okay, okay" and did not respond directly to what mother said. This caused mother to get madder and she slapped appellant. Appellant told mother, "[S]top, mom. Don't do this to me." Appellant walked out of the bathroom and into her bedroom. Mother followed appellant into her bedroom, grabbed her by the hair and slapped her again. Appellant and mother then got "on top of each other" on appellant's bed. Appellant told mother to stop pulling her hair and she hit mother's hands and pulled mother's hair. Appellant's sister heard appellant tell mother not to pull her hair, ran into the bedroom, and separated them.

In sustaining the battery charge, the court stated:

"First there is an issue of credibility. Honestly, I don't believe [appellant] or her sister are credible. That's the first thing I want to say. [¶] Secondly, honestly, the slap by the mother, the mother was angry. I think that was righteous anger on the mother's part. I mean, if you are a parent

and your child is not obeying the rules of the house and coming home late, you don't know where your child is, I can guarantee you the natural reaction from a parent is one that's going to—they are going to be angry, they are going to be upset, they are going to be frustrated. That's all normal behavior by the mom. Period. That is normal parent behavior. ¶¶ When she broke the rules and she has broken them repeatedly the mom was I think entitled to discipline her daughter. Now, whether or not the slap is proper discipline, I think discipline in this case was necessary. There is no doubt about it. [Appellant] needed to be disciplined. She should have been disciplined. I think it was necessary. And I don't think a slap to a kid who is nonresponsive to a parent when her parent's trying to talk to her actually is unreasonable. And I think that there was a slap. Mom admitted to a slap. And then there was some response from [appellant] and I think that rose to a level of a battery. [Appellant] should have obeyed her mom. She should have complied with her mom. She should have responded to the mom. Put it all off on the mother. And I don't see it that way. And I don't think it was self-defense. I think [appellant] was the person that was the aggressor and provoking her mom by not doing what she should have done. ...”

DISCUSSION

Substantial Evidence Supports the Juvenile Court's Finding that Appellant Committed a Battery

Appellant contends mother's use of corporal discipline was unreasonable under the circumstances. Thus, according to appellant the evidence is insufficient to sustain the battery charge because she had a right to defend herself against the continued abuse by mother. We disagree.

“[W]e review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence that is reasonable, credible and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.” (*People v. Snow* (2003) 30 Cal.4th 43, 66.) We must “ “presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence.” ’ ’ ” (*People v. Rayford* (1994) 9 Cal.4th 1, 23.) “[I]t is not within our province to reweigh the evidence or redetermine issues of credibility.” (*People v. Martinez* (2003) 113 Cal.App.4th 400, 412.)

“ ‘Reversal ... is unwarranted unless it appears “that upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].” ’ ” (*People v. Hayes* (2006) 142 Cal.App.4th 175, 179.)

“Battery is a general intent offense. [Citation.] ‘A battery is any willful and unlawful use of force or violence upon the person of another.’ [Citation.] The slightest degree of touching is sufficient. [Citation.] ‘ “Any harmful or offensive touching constitutes an unlawful use of force or violence” under this statute. [Citation.] “It has long been established that ‘the least touching’ may constitute battery. In other words, force against the person is enough; it need not be violent or severe, it need not cause bodily harm or even pain, and it need not leave a mark.” ’ ” (*In re B.L.* (2015) 239 Cal.App.4th 1491, 1495-1496.)

Appellant did not dispute mother’s testimony that while she and appellant were on appellant’s bed, appellant slapped her hands and pulled her hair. Thus, we conclude that substantial evidence supports the court’s finding that appellant committed a battery and the only remaining issue is whether, in doing so, appellant acted in self-defense.

Appellant did not Act in Self-Defense

Self-defense is the only legal justification for battery. (*People v. Mayes* (1968) 262 Cal.App.2d 195, 198.) To establish self-defense as a justification for battery, “ ‘the defendant must have an honest *and reasonable* belief that bodily injury is about to be inflicted on him. [Citation.]’ [Citation.] The threat of bodily injury must be imminent [citation], and ‘... any right of self-defense is limited to the use of such force as is reasonable under the circumstances.’ ” (*People v. Minifie* (1996) 13 Cal.4th 1055, 1064-1065.)

“[However,] [a] parent has a right to reasonably discipline by punishing a child and may administer reasonable punishment without being liable for a battery. [Citations.] This includes the right to inflict reasonable corporal punishment.” (*People v. Whitehurst*

(1992) 9 Cal.App.4th 1045, 1050.) “[Nevertheless], a parent who willfully inflicts *unjustifiable* punishment is not immune from either civil liability or criminal prosecution. [Citations.] [C]orporal punishment is unjustifiable when it is not warranted by the circumstances, i.e., not necessary, or when such punishment, although warranted, was excessive. [Citation.] ‘[B]oth the reasonableness of, and the necessity for, the punishment is to be determined by [the trier of fact], under the circumstances of each case.’ [Citation.]” (*Ibid.*) For a parent’s discipline to fall within the parental disciplinary privilege requires three elements: “(1) a genuine disciplinary motive; (2) a reasonable occasion for discipline; and (3) a disciplinary measure reasonable in kind and degree.” (*Gonzalez v. Santa Clara County Department of Social Services* (2014) 223 Cal.App.4th 72, 91.) “[When a parent engages in reasonable corporal discipline, the child does not have the right to resist that discipline by use of force against the parent.]” (*People v. Clark* (2011) 201 Cal.App.4th 235, 253, fn. 12.)

Appellant was only 14 years old when she disobeyed her mother’s directive to be home by 9:00 p.m., by staying out all night and not returning home until 7:00 a.m., the following morning. Further, rather than stopping and listening to mother when she attempted to talk to appellant about her conduct, appellant flouted mother’s authority by walking directly into a bathroom. Appellant then continued to flout mother’s authority and avoid discussing her conduct with mother by walking into her bedroom. The court could reasonably find from the seriousness of appellant’s conduct and the disrespectful manner in which she avoided discussing it with mother that mother had a disciplinary motive for physically disciplining appellant and that these circumstances provided a reasonable occasion for discipline. Moreover, the record does not disclose where mother slapped appellant, how hard each slap was, or how hard mother pulled appellant’s hair. Nor did appellant contend in her testimony that either slap or the pulling of her hair caused her any physical injury or pain. Thus, the record contains substantial evidence

from which a reasonable trier of fact could conclude that the corporal punishment mother used to discipline appellant was reasonable in kind and degree.

Appellant contends that because she was trying to placate mother when she initially “agreed with her,” it is “questionable whether the [first] slap was the result of a genuine disciplinary motive, or just a desire [by her mother] to slap her child because she was so angry.” She also contends that her conduct did not warrant mother’s use of physical force to discipline her and that the discipline was not reasonable in kind and degree because she did no more than listen to mother yell and scream at her. Thus, according to appellant, she did not commit a battery because she had the right to defend herself against mother’s unreasonable use of force. We disagree.

Appellant may have been trying to placate her mother, but she was also disrespectful of her mother’s authority by walking away from her twice when mother was trying to discuss a serious disciplinary matter with her. And, as discussed above, mother’s physical discipline of appellant was reasonable and not excessive in view of appellant’s conduct.

Appellant also contends the court ignored the history of reports to child protective services, some of which were substantiated, that mother had repeatedly physically and emotionally abused appellant. We cannot consider those reports because they were not before the juvenile court. (*People. v. Pilgrim* (1963) 215 Cal.App.2d 374, 377-378.) Thus, we conclude that appellant did not act in self-defense when she hit mother and pulled mother’s hair and that substantial evidence supports appellant’s adjudication for battery.

DISPOSITION

The judgment is affirmed.